

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KRYSTAN MOHLENHOFF,
INDIVIDUALLY AND AS NEXT
FRIEND OF R.M., A MINOR,

Plaintiffs,

v.

HOBBY LOBBY STORES, INC.,

Defendant.

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CIVIL ACTION NO. 5:21-CV-1298
JURY TRIAL DEMANDED

**DEFENDANT HOBBY LOBBY STORES, INC.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441 and Local Rule CV-81, Defendant HOBBY LOBBY STORES, INC., (hereinafter referred to as “Hobby Lobby” or “Defendant”) hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendant sets forth the following "short and plain statement of the grounds for removal."

**A.
THE REMOVED CASE**

1. The removed case is a civil action first filed with the 207th Judicial District Court of Comal County, Texas, on December 1, 2021, styled *Krystan Mohlenhoff, Individually and as Next Friend of R.M., a Minor v. Hobby Lobby Stores, Inc.*, under Cause No. C2021-1936B.

B.
REMOVAL IS TIMELY

2. Plaintiff, Krystan Mohlenhoff, Individually and as Next Friend of R.M., a Minor, (hereinafter referred to as "Plaintiff"), filed the present civil lawsuit against Defendant HOBBY LOBBY in the 207th Judicial District Court of Comal County, Texas (the "State Court Action"), on December 1, 2021. In the Plaintiff's Original Petition (the "Petition"), Plaintiff asserts a negligence cause of action based on premises liability against HOBBY LOBBY. Plaintiff served HOBBY LOBBY with the Petition on December 3, 2021.

3. Since the thirtieth day of service of the Original Petition falls on January 2, 2021, a Sunday, this Notice of Removal is filed timely pursuant to 28 U.S.C. § 1446(b).

C.
VENUE IS PROPER

4. The United States District Court for the Western District of Texas, San Antonio Division, is the proper venue for removal of the State Court Action pursuant to 28 U.S.C. § 1441(a) because the 207th Judicial District Court of Comal County, Texas, is located within the jurisdiction of the United States District Court for the Western District of Texas – Comal Division.

D.
DIVERSITY OF CITIZENSHIP EXISTS

5. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on

diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

6. According to the Petition, Plaintiff is a resident of Guadalupe County, City of Seguin and a citizen of the State of Texas. Defendant HOBBY LOBBY is a foreign corporation formed under the laws of the State of Oklahoma. Additionally, HOBBY LOBBY's principal place of business is located in Oklahoma City, Oklahoma. Pursuant to 28 U.S.C. § 1332(c)(1), HOBBY LOBBY is a citizen and resident of the State of Oklahoma.

7. Because the Plaintiff is a resident and citizen of the State of Texas and HOBBY LOBBY is a resident of the State of Oklahoma, complete diversity of citizenship exists between the parties pursuant to 28 U.S.C. § 1332.

E.
THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

8. Plaintiff alleges in her Original Petition that she seeks monetary relief “over \$1,000,000.”¹

9. Based on the aforementioned facts, the current State Court Action may be removed to this Court by Defendant in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Western District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy will exceed \$75,000, exclusive of interest and costs.

¹ See, “Plaintiff’s Original Petition” at p 4, ¶ 19.

F.
FILING OF REMOVAL PAPERS

10. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the 207th Judicial District Court of Comal County, Texas, in which this action was originally commenced.

11. Copies of all pleadings, process, orders, the docket sheet, and a list of all counsel of record in the State Court Action are attached to this notice as required by 28 U.S.C. §1446(a) and Local Rule 81. An index of matters being filed is also attached hereto as ***Exhibit “A”***.

G.
CONCLUSION

12. Defendant, HOBBY LOBBY STORES, INC., hereby prays that the above-captioned action be removed from the 207th Judicial District Court of Comal County, Texas, and requests that further proceedings be conducted in the United States District Court for the Western District of Texas, San Antonio Division, as provided by law.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT

HOBBY LOBBY STORES, INC.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on December 31, 2021, the foregoing *Notice of Removal* was electronically filed, as required by the United States District Court for the Western District of Texas, using the Court's CM/ECF filing system, which will provide notice and a copy of this document, with attachments, to the following, who are indicated to be registered ECF filers in the United States District Court for the Western District of Texas:

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Counsel for Plaintiff

/s/ Zach T. Mayer

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